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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,093	01/07/2004	Susan M. Barnabo	PCC123	2751

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER, NH 03101

EXAMINER

SCHINDLER, DAVID M

ART UNIT	PAPER NUMBER
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2862

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09/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/753,093	Applicant(s) BARNABO ET AL.	
	Examiner David M. Schindler	Art Unit 2862	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6, 8, 11-14 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6, 8, 11-14 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the Request for Continued Examination filed 8/28/2007.

Response to Arguments

2. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claims 3, 6, 11, and 18 are objected to because of the following informalities: The use of the phrase "no member extends" on for example the second from the last line of claim 3 is not clear in that it is not clear what applicant is referring to with the term "member." Clarification is requested. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

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out and distinctly claim the subject matter which applicant regards as the invention.

As to Claim 11,

The phrase "and a second of said movable rail and wherein no member extends" on the third and second from the last line is awkward and not clearly understood.

As to Claims 12-14,

These claims stand rejected for incorporating the above rejected subject matter of claim 11.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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7. Claims 2-6, 8, 11-14, and 17-19 are rejected under 35 U.S.C. 102(b) and 35 U.S.C. 102(e) as being anticipated by Kume et al. (Kume) (2002/0125396).

As to Claim 3,

Kume discloses a sensor assembly including at least one magnet (5d), the magnet disposed adjacent a magnetic field sensor (5e) (Figure 4), the magnetic field sensor being spaced from the magnet and including a surface in opposed facing relationship to the magnet (Figure 4), the sensor assembly mounted to a rail of an automobile seat rail system ((Figures 1-4) and (Page 1, Paragraph [0002])), an activating member (5c), the magnetic field sensor providing a first output corresponding to a first amount of magnetic flux imparted perpendicularly to the surface of the magnetic field sensor when the activating member is in a first position relative to the sensor assembly ((Figure 4 / note arrows) and (Page 3, Paragraphs [0047]-[0050])), and a second output corresponding to a second amount of magnetic flux imparted perpendicularly to the surface of the magnetic field sensor when the activating member is in a second position relative to the sensor assembly ((Figure 5) and (Page 3, Paragraphs [0047]-[0050])), the first amount of magnetic flux being greater than the second amount of magnetic flux (Page 3, Paragraph [0050]), wherein no member extends between the magnet

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and the magnetic field sensor in either of the first and the second position (Figures 4 and 5).

As to Claim 2,

Kume discloses the magnetic field sensor includes a Hall sensor (Page 3, Paragraph [0050]).

As to Claim 4,

Kume discloses the sensor assembly is mounted directly to the rail (Figures 3 and 4).

As to Claim 5,

Kume discloses the sensor assembly is mounted to the rail via a bracket (Page 3, Paragraph [0046]).

As to Claim 6,

Kuma discloses a sensor assembly including at least one magnet (5d), the magnet disposed adjacent a magnetic field sensor (5e) (Figure 4), the magnetic field sensor being spaced from the magnet and including a surface in opposed facing relationship to the magnet (Figure 4), and an activating member (5c), the activating member being a rail of an automobile seat rail system ((Figures 3 and 4) and (Page 2, Paragraph [0043] / note that the lower rail body (2) is provided with contact plate (5c)) and (Page 1, Paragraph [0002])), the magnetic field sensor providing a first output corresponding to a first amount of magnetic flux imparted perpendicularly to the surface of the

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magnetic field sensor when the activating member is in a first position relative to the sensor assembly ((Figure 4 / note arrows) and (Page 3, Paragraphs [0047]-[0050])), and a second output corresponding to a second amount of magnetic flux imparted perpendicularly to the surface of the magnetic field sensor when the activating member is in a second position relative to the sensor assembly ((Figure 5) and (Page 3, Paragraphs [0047]-[0050])), the first amount of magnetic flux being greater than the second amount of magnetic flux (Page 3, Paragraph [0050]), wherein no member extends between the magnet and the magnetic field sensor in either of the first and the second position (Figures 4 and 5).

As to Claim 8,

Kume discloses the sensor assembly is mounted on a first rail of an automobile seat rail system and the activating member is a second rail of the automobile seat rail system ((Figures 1-4) and (Page 2, Paragraph [0043] / note that the lower rail body (2) is provided with contact plate (5c))).

As to Claim 11,

Kume discloses a seat rail system including a movable rail and a stationary rail ((Figures 1-4) and (Page 2, Paragraph [0039])), a sensor assembly including at least one magnet (5d) and a Hall device (5e), the Hall device being spaced from the

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magnet and including a surface in opposed facing relationship to the magnet (Figure 4), the sensor assembly being mounted to a first of the movable rail and the stationary rail ((Figures 1-4) and (Page 2, Paragraph [0041]) and (Page 3, Paragraph [0046]) and (Page 4, Paragraph [0063])), and the Hall device providing a first output corresponding to a first amount of magnetic flux imparted perpendicularly to the surface of the Hall when the movable rail is in a first position relative to the stationary rail ((Figure 4 / note arrows) and (Page 3, Paragraphs [0047]-[0050])), and a second output corresponding to a second amount of magnetic flux imparted perpendicularly to the surface of the Hall device when the movable rail is in a second position relative to the stationary rail ((Figure 5) and (Page 3, Paragraphs [0047]-[0050])), the first amount of magnetic flux being greater than the second amount of magnetic flux (Page 3, Paragraph [0050]), and a second of the movable rail and wherein no member extends between the at least one magnet and the Hall device in either of the first position and the second position (Figures 4 and 5).

As to Claim 12,

Kume discloses the sensor assembly is mounted to the movable rail ((Figures 1-4) and (Page 2, Paragraph [0041]) and (Page 3, Paragraph [0050])).

As to Claim 13,

Kume discloses the sensor assembly is mounted to the stationary rail (Page 3, Paragraph [0063]).

As to Claim 14,

Kume discloses the sensor assembly is mounted to one of the movable rail and the stationary rail via a mounting bracket ((Figures 1-4) and (Page 2, Paragraph [0041]) and (Page 3, Paragraphs [0046] and [0050]) and (Page 3, Paragraph [0063])).

As to Claim 17,

Kume discloses one of the movable rail and stationary rail includes an activation member (5c); the activating member being in a first activating position relative to the sensor assembly when the movable rail is in the first position relative to the stationary rail, and the activating member being in a second activating position relative to the sensor assembly when the movable rail is in the second position relative to the stationary rail, the activating member not extending between the at least one magnet and the Hall device in either of the first and second activating positions ((Figures 4 / note arrows and 5) and (Page 3, Paragraphs [0047]-[0050])).

As to Claim 18,

Kume discloses providing a sensor assembly including at least one magnet (5d) and a Hall device (5e), the Hall device

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being spaced from the magnet and including a surface in opposed facing relationship to the magnet (Figures 4 and 5), mounting the sensor assembly to a first seat rail (Page 3, Paragraph [0046]), the Hall device providing an output, the output being a first output corresponding to a first amount of magnetic flux imparted perpendicularly to the surface of the Hall device when the sensor assembly is in a first position relative to a second seat rail and the output being a second output corresponding to a second amount of magnetic flux imparted perpendicularly to the surface of the Hall device when the sensor assembly is in a second position relative to the second seat rail ((Figures 4 / note arrows and 5) and (Page 3, Paragraphs [0047]-[0050])), the first amount of magnetic flux being different from the second amount of magnetic flux (Page 3, Paragraph [0050]), wherein no member extends between the at least one magnet and the Hall device in either of the first and second positions (Figures 4 and 5), and determining a position of the seat in response to the output ((Page 1, Paragraph [0011]) and (Page 3, Paragraphs [0050]-[0056])).

As to Claim 19,

Kume discloses mounted an activating member (5c) to the second seat rail, the Hall device providing a first output when the activating member is in a first position relative to the

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sensor assembly and a second output when the activating member is in a second position relative to the sensor assembly, the activating member not extending between the at least one magnet and the Hall device in either of the first and second position of the activating member ((Figures 3-5) and (Page 3, Paragraphs [0045]-[0050])).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Schindler whose telephone number is (571) 272-2112. The examiner can normally be reached on Monday-Friday (8:00AM-5:00PM).

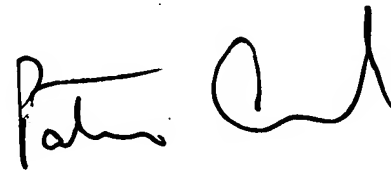
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on (571) 272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David M. Schindler
Examiner
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DMS

A handwritten signature in black ink, appearing to read 'Patrick Assouad', with a stylized flourish at the end.

**PATRICK ASSOUD
SUPERVISORY PATENT EXAMINER**